

House Bill 1262

By: Representatives Stephens of the 164th and Manning of the 32nd

A BILL TO BE ENTITLED
AN ACT

To amend Article 7 of Chapter 10 of Title 24 of the Official Code of Georgia Annotated, relating to depositions to preserve testimony in criminal proceedings, so as to expand the types of witnesses for which a deposition may be taken; to provide for related matters; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Article 7 of Chapter 10 of Title 24 of the Official Code of Georgia Annotated, relating to depositions to preserve testimony in criminal proceedings, is amended by revising subsection (b) of Code Section 24-10-130, relating to when a deposition to preserve testimony in criminal proceedings may be taken, as follows:

“(b) The court shall not order the taking of the witness’s testimony, except as provided in paragraph (2) of subsection (a) of this Code section, unless it appears to the satisfaction of the court that the testimony of the witness is material to the case and the witness:

(1) Is in imminent danger of death;

(2) Has been threatened with death or great bodily harm because of the witness’s status as a potential witness in a criminal trial or proceeding;

(3) Is about to leave the state and there are reasonable grounds to believe that such witness will be unable to attend the trial;

(4) Is so sick or infirm as to afford reasonable grounds to believe that such witness will be unable to attend the trial; ~~or~~

(5) Is being detained as a material witness and there are reasonable grounds to believe that the witness will flee if released from detention; or

(6) Is over the age of 65 as of the date of the alleged crime.

SECTION 2.

All laws and parts of laws in conflict with this Act are repealed.